

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MICHELE HERNANDEZ,

Plaintiff,

-against-

THE CITY OF NEW YORK; JAMES P.O'NEILL, as
Police Commissioner, Police Department City of New
York; WILLIAM J. BRATTON, as Former Police
Commissioner, Police Department City of New York,
RAYMOND W. KELLY, as Former Police
Commissioner, Police Department City of New York;
KEVIN CATALINA, as Former Commanding Officer,
44 Precinct; Keith Walton, as Former Commanding
Officer, 49 Precinct and VANESSA L. GIBSON, as New
York City Council Member and Chairperson on the
Committee of Public Safety; DARCEL D. CLARK, as
District Attorney of Bronx County; WANDA PEREZ-
MALDONADO, as Chief, Public Integrity Bureau,
Office of the Bronx District Attorney; OMER WICZYK,
as Deputy Chief, Public Integrity Bureau, Office of the
Bronx District Attorney; KATHERINE HWANG, as
Special Assistant District Attorney, Department of
Investigations and the Public Integrity Bureau, Office of
the Bronx District Attorney, each being sued individually
and in their official capacities as employees of defendant
THE CITY OF NEW YORK,

Defendants
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**NOTICE OF MOTION
TO DISMISS
PLAINTIFF'S AMENDED
COMPLAINT**

16 CV 9662 (JGK)

PLEASE TAKE NOTICE that upon the Declaration of Danielle M. Dandrige dated September 12, 2017, the accompanying Memorandum of Law, and all the papers and proceedings herein, Defendants will move this Court, before the Honorable John G. Koeltl, United States District Judge, Southern District of New York, at the United States Courthouse located at 500 Pearl Street, New York, New York, 10007, on a date and time to be designated by

the Court, for an order and judgment, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure (a) dismissing plaintiff's First Amendment retaliation claim for failing to state a legally cognizable cause of action; (b) dismissing the First Amendment retaliation claims against the individually-named defendants on the basis of lack of personal involvement and qualified immunity; (c) dismissing plaintiff's claims of gender discrimination and hostile work environment brought pursuant to 42 U.S. C. § 1983, New York State Executive Law § 296, and New York City Administrative Code § 8-107 for failing to state a cause of action; (d) dismissing plaintiff's claims of retaliation brought pursuant to 42 U.S. C. § 1983, New York State Executive Law § 296, and New York City Administrative Code § 8-107 for failing to state a cause of action; and (e) dismissing Monell claims for failing to state a cause of action; and (f) granting defendants such other and further relief as the Court deems just and proper.

PLEASE TAKE FURTHER NOTICE that papers in opposition to the motion are to be served on the undersigned on or before October 6, 2017 and defendants' reply papers, if any, are to be served on or before October 20, 2017 pursuant to the Court's briefing scheduling order, dated July 12, 2017.

Date: New York, New York
September 12, 2017

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City of New York
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By: /s/
Danielle M. Dandrige
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UNITED STATES DISTRICT COURT
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MICHELE HERNANDEZ,

Plaintiff,

-against-

CITY OF NEW YORK, ET AL,

Defendants

**NOTICE OF MOTION TO DISMISS THE
AMENDED COMPLAINT**

ZACHARY W. CARTER

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Attorney for Defendants

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New York, New York 10007-2601

Of Counsel: Danielle M. Dandrige

Tel: (212) 356-0889

Matter No.: 2017-005566

Due and timely service is hereby admitted.

New York, N.Y. , 2016

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Attorney for